

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

(240) 777-6600

**Case No. S-2822**

**PETITION OF SIENA LEARNING, LLC  
d/b/a THE SIENA SCHOOL**

OPINION OF THE BOARD  
(Opinion Adopted March 28, 2012)  
(Effective Date of Opinion: April 26, 2012)

Case No. S-2822 is an application, under Section 59-G-2.19 of the Montgomery County Zoning Ordinance, for a special exception to operate a private school. The Hearing Examiner for Montgomery County held a hearing on the application on January 6, 2012, closed the record in the case on March 5, 2012, and on March 14, 2012 issued a Report and Recommendation for approval of the special exception.

Decision of the Board:                      Special Exception **Granted** Subject to  
The Conditions Enumerated Below.

The subject property is in Parcel 706, located at 1300 Forest Glen Road, Silver Spring, MD 20901, in the R-60 Zone.

The Board of Appeals considered the Report and Recommendation at its Worksession on March 28, 2012. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in this report.
2. Petitioner must comply with the terms of its revised Site Plan (Exhibit 33(c) for Phase I and Exhibit 43(a) for Phases II and III); its revised Landscape and Lighting Plan (Exhibits 33(d)(i) and (ii)); its revised Transportation Management Plan –TMP (Exhibit 36(a)); its Second Amended Statement of Operations (Exhibit 40(a)); and the Stormwater Management Plan ultimately approved by the Department of Permitting Services. Physical

improvements are limited to those shown on the revised site and landscape plans.

3. Up to eight large-scale events and activities that are inherent in the operation of a private educational institution are permitted in an academic year. These events are described in the Second Amended Statement of Operations (Exhibit 40(a)). Petitioner must finalize an agreement with Montgomery County Parks to permit overflow parking at the Argyle Park-Schweinhaut Senior Center for these large-scale events, as indicated in Exhibit 24, and in the TMP (Exhibit 36(a)).
4. Academic school year operations are limited to no more than 225 students and 55 staff (excluding volunteers, visiting coaches and parents) in grades 4 to 12. At no time shall the Petitioner admit a greater number of students than it is able to appropriately manage with the facilities, faculty and staff available at the time. Petitioner must provide one on-site parking space for each staff member, unless it demonstrates to the Board's satisfaction in an administrative modification request that a lesser number of spaces will suffice. The following caps are imposed on the number of Siena students and staff on site at any given time:

Phase I 110 students & 20 Staff

Phase II 225 students & 55 Staff (or the number of staff parking spaces, whichever is less)

Phase III 225 students & 55 Staff (or the number of staff parking spaces, whichever is less)

The same caps shall apply to summer school.

5. A summer program may be conducted for no more than 10 weeks. School operations may include summer day camps, including after-care and recreational activities, community accessible education, indoor/outdoor recreation, academic programs, drama and art classes, and facility rentals. The summer program is limited to 225 children and 55 staff. At no time shall the Petitioner admit a greater number of students than it is able to appropriately manage with the facilities, faculty and staff available at the time.
6. Hours of operation for any on-site activity will be from 7:30 a.m. until 6:00 p.m., Monday through Friday, except for special events when the facility can stay open as late as 9:00 p.m., and Saturday, 8:00 a.m. until 5:00 p.m.
7. The 0.1 foot-candle standard specified in Zoning Ordinance §59-G-1.23(h) is hereby waived for this site in the interests of public safety, as long as Petitioner complies with its revised Landscape and Lighting Plan (Exhibits 33(d)(i) and (ii)).

8. Pursuant to Zoning Ordinance §59-E-4.5, a waiver is hereby granted from the setback requirements of Zoning Ordinance §59-E-2.83 for the parking areas along the east side of the property, to the extent necessary to allow parking as depicted in the revised Site Plans (Exhibit 33(c) for Phase I and Exhibit 43(a) for Phases II and III).
9. No vehicles destined for the school are allowed to be queued off-site and onto adjacent streets during the morning drop-off and afternoon pick-up periods. On-street parking in the vicinity of the site in connection with the Siena School use is prohibited.
10. Petitioner must denote "staff-only" parking along the proposed parallel parking on the drive access and in the drop-off loop, closest to the Phase II building addition.
11. Petitioner must satisfy the Policy Area Mobility Review (PAMR) by paying a total of \$163,800 to the Montgomery County Department of Transportation (MCDOT). Any payment schedule must be made consistent with the issuance of all building permits relating to the physical improvements described as Phases I, II and III in the revised site plans. If a partial payment agreement is not established, then the full amount is due at the time of initial building permits.
12. A sign permit must be obtained for the proposed monument and wall signs (Exhibits 44(a) and (b)), and a copy of the permit for the approved signs must be submitted to the Board of Appeals before the signs are posted. If required by the Department of Permitting Services, Petitioner must obtain a sign variance for the proposed signs or amend the design of the proposed signs to have them conform with all applicable regulations. If the design is amended, a diagram showing the amended design must be filed with the Board.
13. Petitioner must provide three inverted-U bike racks near the main entrance in a well-lit and weather-protected area.
14. Petitioner must comply with all Maryland State and Montgomery County licensure requirements and standards for the operation of a private educational institution.
15. All children must be under the direct supervision of a staff member at all times, both inside and outside the building. Outdoor play may not begin before 8:30 a.m. No amplified music may be played by Petitioner outside the building.
16. The Petitioner shall maintain the grounds in a clean condition, free from debris, on a daily basis.
17. Plans for future construction are subject to review by DPS officials to ensure compliance with the applicable development standards. Approval

of the special exception in this case should be taken as an interim, not final, determination by the Board of Appeals that the planned construction in Phases II and III will meet all development standards applicable at that time. Petitioner must file with the Board of Appeals a valid permit (or permits) issued by DPS for any future construction on the site, and ultimately Petitioner's construction must bring the building within the applicable development standards.

18. The Board will retain jurisdiction for two years after Siena School's operations commence on the site to ensure that the Siena School's activities, in combination with other activities at the site, are not having an unduly adverse effect on the surrounding neighborhood due to traffic, noise, lighting, parking, or the intensity, frequency, or duration of activities. After the first year of operations, Petitioner must have a traffic and parking study done to determine the impacts of the total cumulative number of car trips and parking generated by the regular academic program, the Boys and Girls Club activities, the before and after-school programs and the summer programs, whether or not the traffic exceeds the capacity of the roads. The results of the traffic study must be shared with Technical Staff and NCA, FGCA and SFCCA. It must also be filed with the Board of Appeals. The Board will thereafter schedule a work session to determine whether additional conditions are needed to protect the community.
19. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by Walter S. Booth, with Stanley B. Boyd, David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair, in agreement the Board adopted the following resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

---

Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 26<sup>th</sup> day of April, 2012.

---

Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.